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## November 18, 2004

**SUBJECT: CITY OF CAPITOLA: LOCAL COASTAL PROGRAM MAJOR AMENDMENT NO. 2-04-Part A.** For public hearing and Commission action at its meeting of December 9, 2004.

The City of Capitola is proposing to amend the certified Implementation Plan by: 1) replacing Zoning Chapters 12.12 (Tree Planting – Public Property) and 12.16 (Tree Removal) with new Zoning Section 12.12 (Community Tree & Forest Management Ordinance), and; 2) adding secondary dwelling units as a principal permitted use in the R-1 (Single-Family Residence) zoning district.

Staff has reviewed the proposed amendment to the Implementation Plan for consistency with the certified Land Use Plan. Potential issues raised (and adequately addressed) by the proposed amendments include parking and community character. As discussed in detail below, Staff recommends **approval** of City of Capitola Implementation Plan Major Amendment No. 2-04-Part A if it is modified as follows: 1) consistent with State Law, eliminate the public hearing requirement for secondary dwelling units; 2) amend the definition of secondary dwelling units to differentiate between attached and detached units.

The Commission certified the City of Capitola's Land Use Plan in June 1981 and the City Council accepted this certification action in November 1981. The Implementation Plan was certified in January 1990 and the City accepted this certification action in April 1990. The City has organized and submitted this LCP amendment request in accordance with the standards for amendments to certified LCPs (Coastal Act Sections 30512(c), 30512.2, 30513, and 30514, and California Code of Regulations 13551 through 13553). The proposed amendment affects the Implementation Plan components of the City of Capitola LCP. The standard of review for implementation amendments is that they must be consistent with and adequate to carry out the policies of the certified coastal land use plan.



**California Coastal Commission  
December 2004 Meeting**

Staff: S. Craig    Approved by:

## ADDITIONAL INFORMATION

Further information on the submittal may be obtained from Susan Craig at the Central Coast District Office of the Coastal Commission at 725 Front Street, Suite 300, Santa Cruz, CA 95060, (831) 427-4863.

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## I. STAFF RECOMMENDATION: MOTIONS AND RESOLUTIONS

Staff recommends adoption of the following resolutions:

### **Resolution I. (Resolution to approve City of Capitola Implementation Plan Major Amendment No. 2-04-Part A as submitted)**

Staff recommends a **YES** vote on the motion below. Passage of this motion will result in rejection of the Implementation Plan amendment and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

***Motion.*** *I move that the Commission **reject** Major Amendment #2-04-Part A to the City of Capitola Local Coastal Program Implementation Plan as submitted.*

***Resolution to reject.*** *The Commission hereby **rejects** certification of Major Amendment #2-04-Part A to the Implementation Plan of the City of Capitola Local Coastal Program, as submitted, and adopts the findings set forth below on grounds that the Implementation Plan, as submitted, is not in conformity with the certified Land Use Plan. Certification of the Implementation Plan amendment would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Plan amendment as submitted.*



**Resolution II. (Resolution to approve City of Capitola Implementation Plan Major Amendment No. 2-04-Part A, if modified)**

Staff recommends a **YES** vote on the motion below. Passage of this motion will result in rejection of the Implementation Plan amendment and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

**Motion.** *I move that the Commission **certify** Major Amendment #2-04-Part A to the City of Capitola Local Coastal Program Implementation Plan if modified as suggested by modifications #1-2 in this staff report.*

**Resolution to certify.** *The Commission hereby certifies Major Amendment No. 2-04-Part A to the Implementation Plan of the City of Capitola Local Coastal Program, as modified by suggested modifications #1-2, and adopts the findings set forth below on grounds that the Implementation Plan amendment with the suggested modifications will be in conformity with and adequate to carry out the certified land use plan. Certification of the Implementation Plan amendment, if modified as suggested, complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Plan amendment on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.*

## II. SUGGESTED MODIFICATIONS

The Commission hereby suggests the following changes to the proposed Local Coastal Program amendments, which are necessary to make the requisite findings. If the local government accepts the suggested modifications within six months of Commission action, by formal resolution of the City Council, the corresponding amendment portion will become effective upon Commission concurrence with the Executive Director finding that this has been properly accomplished.

**Note:** *The suggested modifications are shown by deleting existing text with ~~strikethrough~~ and adding text with underline.*

### **Modification #1**

Amend Zoning Regulation 17.46.080(A) to add the following language:

- A. Hearing Required. At least one public hearing shall be required prior to approval of a coastal permit ~~-,~~ except for a secondary dwelling unit.

### **Modification #2**

Amend Zoning Regulation 17.99.010(A) to add the following language:

- A. Secondary Dwelling unit. A self-contained living unit, either attached or detached from, and



in addition to, the primary residential unit on a single lot. A secondary unit will be considered as attached to the primary residential unit for the purposes of this chapter when the secondary dwelling unit shares at least one common wall with the primary residential unit. All other secondary dwelling units for purposes of this chapter will be considered detached.

### III. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

#### A. Accessory Dwelling Units

The following City of Capitola Land Use Plan policies encourage residential development in areas designated for this use:

***Policy I-2:** It shall be the policy of the City of Capitola to encourage mixed commercial/residential development in the Village and to designate certain existing residential areas as exclusively residential.*

***Policy III-15:** Long-term and short-term housing should be maintained and encouraged, consistent with maintaining a balance with permanent resident and visitor's uses of the Village as a special community.*

The City proposes to amend the zoning regulations to provide compliance with State Law AB 1866, which addresses a number of housing issues, including a change to the law regarding local jurisdictions' review of second unit applications. State Law AB 1866 prohibits the City from requiring a public hearing for second units and essentially requires the City to issue only ministerial permits (building permits) for second unit applications filed after July 1, 2003. State Law AB 1866 also requires consistency with the Coastal Act.

The proposed amendment adds Chapter 17.99 (Secondary Dwelling Units) to the certified implementation plan. This new chapter defines SDUs, describes the design and development standards for SDUs. Additionally this new chapter notes that SDUs are only allowed in the R-1 zoning district and that proposed SDUs require only an administrative review if they meet the R-1 zoning district development standards, as well as the design and development standards in new section 17.99.060. Proposed Section 17.99.060 addresses parking requirements, allowable unit size and height, setbacks, and design of SDUs. Regarding parking requirements, the amendment states that parking requirements must meet the certified zoning requirement for the combined square footage of habitable space on the property. The amendment also modifies certified section 17.15.040 by adding secondary dwelling units as a principal permitted use in the R-1 zoning district. See Exhibit 1 for the proposed amendment language.

State Law AB 1866 removes the requirement for public hearings for SDUs. The proposed amendment, however, does not change this requirement in certified Chapter 17.46 (Coastal Zone Combining District) of the implementation plan. Therefore, Modification #1 is necessary to amend section 17.46.080 to state



that no public hearing is required for secondary dwelling units subject to a coastal permit. In addition, Modification #2 provides additional language to differentiate between attached and detached secondary dwelling units (this additional language was requested by City planning staff). Both modifications are acceptable to City planning staff.

Although the proposed amendment would remove the coastal hearing requirement for SDUs, owners of neighboring properties of a proposed SDU will continue to receive notification of the pending permit application and a posting notice at the proposed project site will continue to be required. In addition, local approval of SDUs within the Coastal Commission's appeal jurisdiction will continue to be appealable to the Coastal Commission after all local appeals have been exhausted.

Capitola Land Use Plan Policies I-2 and III-15 provide for residential development in the City of Capitola, in balance with visitor-serving uses, and designate certain existing residential areas as exclusively residential. The proposed amendment provides for infill SDU residential development only in areas zoned for single-family residential use. The amendment does not allow development of SDUs in the visitor-serving areas of the City's Central Village. The proposed modifications to the amendment provide clarification regarding the public hearing requirements for SDUs that are subject to coastal permits, as well as defining detached and attached SDUs. As modified, the proposed amendment is consistent with the Land Use Plan policies of the Capitola LCP.

## B. Community Tree and Forest Management

Capitola Land Use Plan (LUP) Visual Resources and Special Communities Policy III-1 states (in relevant part):

*It shall be the policy of the City of Capitola to maintain the natural features, visual resources, and unique character of the Capitola Village...*

LUP Visual Resources and Special Communities Policy III-4 states:

*It shall be the policy of the City of Capitola to require the planting of trees in new development and to protect existing trees by allowing removal only in accordance with the City's Tree Ordinance. The City should encourage new developments to be designed to preserve significant vegetation.*

LUP Natural Systems Policies VI-2 & VI-3 state (in relevant part):

**VI-2.** *It shall be the policy of the City of Capitola to protect, maintain, and where possible, enhance the environmentally sensitive and locally unique habitats within its coastal zone...*

**VI-3.** *It shall be the policy of the City of Capitola to maintain the maximum amount of native vegetation along Soquel Creek and other riparian areas...*

LUP Natural Systems Policy VI-10 states:

*It shall be the policy of the City of Capitola to protect the winter resting sites of the monarch butterfly in the eucalyptus groves of Escalona Gulch, New Brighton Gulch, and Soquel Creek as*



*designated on Map VI-2 by requiring detailed analysis of the impacts of development on the habitat.*

The City of Capitola is proposing to amend the certified Implementation Plan by replacing Zoning Chapters 12.12 (Tree Planting – Public Property) and 12.16 (Tree Removal) (see Exhibit 2) with new Zoning Section 12.12 (Community Tree & Forest Management Ordinance) (see Exhibit 3). Proposed new Zoning Section 12.12 finds that the protection and enhancement of existing tree cover serves a number of public interests, including reducing local air pollution by absorbing carbon dioxide and producing oxygen, reducing soil erosion, enhancing the visual and aesthetic qualities of the City, and providing habitat for birds and other wildlife. The amended language provides additional goals for the City regarding trees, including: protecting and increasing the level of tree cover on public and private lands within the City; establishing a Community Tree Fund to pay for replacement planting in suitable locations in city parks, sensitive habitat areas, or along city streets; developing a heritage tree program to provide the owners of heritage trees with technical and financial help for the maintenance of such trees, and; encouraging tree planting on public and private property to cultivate a flourishing community forest. These goals are consistent with the Visual Resources and Special Communities policies of the certified Land Use Plan.

The proposed amendment includes a permit process for the removal and pruning of heritage trees, as well as non-heritage trees that have a minimum six-inch diameter at 48 inches above existing grade. The proposed language provides more specificity regarding when trees may be pruned or removed than the certified language. For example, specific findings regarding health and safety must be made before a heritage tree may be removed or pruned more than 25% within a three-year period. For non-heritage trees, the proposed amendment defines the amount of pruning allowable without a permit (e.g., no more than 25% of the tree's height and volume), with exceptions allowed for fruit trees. The proposed amendment also requires the planting of replacement trees at a 2:1 ratio to compensate for each tree removed. The proposed amendment also provides that *all* trees, regardless of size, within an environmentally sensitive habitat area (such as a monarch butterfly roosting site or in a riparian corridor) shall require permits for removal, pruning, cutting, and trimming, consistent with the Natural Systems policies of the Land Use Plan.

The proposed amendment provides adequate goals and standards to provide for the protection of existing tree cover and the enhancement and increase in tree cover in the City of Capitola. Thus, as submitted, the proposed amendment is consistent with the Land Use Plan policies of the Capitola LCP.

#### IV. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The Coastal Commission's review and development process for Local Coastal Programs and amendments to them has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by CEQA. Therefore, local governments are not required to undertake environmental analysis on LCP amendments, although the Commission can and does utilize any environmental information that the local government has developed. Approval of the amendments, as modified, will not have significant environmental effects, consistent with the California Environmental Quality Act.

